

REFRAMING EDUCATION

THE FOUR A'S OF SUCCESS FOR CHILDREN IN CARE

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Abstract:

Education is a human right with the immense power to change lives. A child's ability to learn and adopt throughout their development is key in ensuring the children we care for are raised to be well functioning responsible adults who give back to their communities. Children in foster care face immense but not insurmountable obstacles in life... Educational attainment is a valuable asset to the African American foster child. Contextual factors in life, environment, and government play a role in everyone's life but these factors play a unique and specific role in the life of African American children in care. The minority foster child must be reviewed in the context of their lives... The efforts to reframe education for all children must include those children who marginalized by a system which inherently excludes them from life's opportunities... The right to education is not only a human right but it is paramount to the advancement of our futures.

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"One looks back with appreciation to the brilliant teachers, but with gratitude to those who touched our human feelings. The curriculum is so much necessary raw material, but warmth is the vital element for the growing plant and for the soul of the child." –Carl Gustav Jung

~ ~ ~ ~

Mrs. Nyra B. Pierre for her tireless efforts and early morning calls of support towards the completion of this paper.

"Winter, Spring, Summer, or Fall all you gotta do is call..., and I'll be there yes I will, you got a friend." –James Taylor

~ ~ ~ ~

Mr. Steven D. Tate, thank you for teaching me and loving me without condition because without your insight I might not have followed through with my journey to enter Law school.

"...I love you in a place where there is no space or time" –Leon Russell

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“Of all the civil rights for which the world has struggled and fought for 5,000 years, the right to learn is undoubtedly the most fundamental...” -W. E. B. Du Bois

Introduction

This research is focused on the right to education, specifically as it pertains to African American foster children. Its intention is to show how the human right to education is an inalienable right. This right also adjuncts the right to life and health for African American Black children in the child welfare system.

The thesis will identify the minority foster child in context, educators, poverty, and the child welfare system. It will expand on the relationship between the 4-A scheme: available, accessible, acceptable, and adequate education in America; and the additional factors annexing the attainment of education for minority children, reviewing past trends in policy and the law as well as social, historical, and cultural issues which effect African American children today.

Moreover, this paper will analyze a few of the circumstances surrounding prolonged living in foster care and its influence on attainment and retention. It will further show the disproportionate levels of inequality between African American children and others while illustrating how education is the right of every person. As a substantive right it should be respected just as any other right. This research will further present a synopsis of the law at the international, federal, and state levels and offer a singular review of the state of Florida.

In summary this paper will offer suggested future trends in education as it pertains to the maltreated child and offer theories on adaptable teaching methods which may aid in the deteriorating attainment of education for children in [foster] care.

What is the Right to Education

*“Education is a human right with the immense power to transform. On its foundation rest the cornerstones of freedom, democracy and sustainable human development.”*²

A child’s ability to learn and adopt throughout their development is key in ensuring the children we care for are raised to be well functioning responsible adults who give back to their communities. The right to education is not only a human right but it is paramount to the advancement of our future. Without education you enable poverty.

² Kofi Atta Annan (born 8 April 1938) is a Ghanaian diplomat who served as the seventh Secretary-General of the UN from 1 January 1997 to 31 December 2006. Annan and the United Nations were the co-recipients of the 2001 Nobel Peace Prize for his founding of the Global AIDS and Health Fund to support developing countries in their struggle to care for their people.

Impoverished communities are not only lacking in wealth but they oftentimes, because of circumstance lack in literacy, love, and personal religion. As a result you create wrecked families which generate broken people who then feed into the social welfare system. Foster care is intended to be a short term solution until a permanent placement or family reunification can be arranged; unfortunately, this is not always the case.³ “Foster care is the term used for a system in which a minor who has been made a ward of the state is placed in the private home of a state certified caregiver referred to as a “foster parent⁴”. The state under the governing of family courts and its accompanying child protection agencies stand *in loco parentis* to the minor, making all legal decisions for and in the best interest and well-being of the child. A foster parent is responsible for the day to day custodial care of the minor child and in most cases is remunerated by the state for their services⁵.

“According to national data, roughly 37 percent of the children in foster care are African American despite the fact that African American children make up only 15 percent of the children living in the United States.”⁶ Unfortunately, many children in foster care experience a delayed acquisition of life skills as a result of abuse, neglect, and abandonment, and often times remain in a stage of an arrested development⁷. Detachments of this kind can create immediate and undefined long-term effects⁸. Young children do not forget what they have witnessed and recall traumatic events, shown in behavior or thoughts⁹ directly diminishing their capacity towards prosperous and healthy attainment of education and basic life skills.¹⁰

The term “foster child” refers to the minor child who has been removed from the parent’s custodial care because of allegations of abuse, neglect, and abandonment.¹¹

3 Foster care [is] as minimum length of time or stay in foster care as stated in Department of Children and Families and the State of Florida best practices in child welfare.

4 Source this

5 Source this

6 Racial Disparities in Foster Care, Admissions disproportionate rates by state range from 1.56 to 5.46, according to the Center for the Study of Social Policy.

<http://www.cssp.org/uploadFiles/factSheet1.pdf>, last accessed 3/15/2012

7 Transitions in Family Therapy, 2010

8 Source this

9 Turner, Shairi, Dr., (@MyFLFamilies), Turner: Young children do not forget what they have witnessed and recall traumatic events, shown in behavior or thoughts , 10:36 AM - 9 Mar 12, Tweet 10 Psychology.net

11 State of Florida definition under Chapter 39.01 defined terms. 39.0016, Education of abused, neglected, and abandoned children; agency agreements; children having or suspected of having a disability.—AGENCY AGREEMENTS. (a) The department shall enter into an agreement with the

Post traumatic stress disorder, also known as the PTSD Effect, is common amongst foster children who often experience severe situations such as neglect, physical abuse, or sexual abuse before they are in an out-of-home placement.¹² A history of maltreatment is the most common background for children who are placed outside of the home. The failure of biological parents to care for their children is often correlated with the mental health problems children in care face. Trauma impacts brain development in very young children and the maltreated child's brain is smaller.¹³ Additionally, the emotional and behavioral difficulties that accompany the sudden transition into foster care, added to the specific issues within the family and, the subsequent issues in social, emotional and educational development, all contribute to the challenge of educational attainment for the foster child.

Kids need to be healthy, educated, safely housed, well-fed and well supported to strive, and thrive in all stages of development so they can fulfill their God-given potential. A quality education is a very important factor in a child's development. As one grows one learns and an educational skill set is important in the healthy transition from adolescents into teens and teenagers to young adults.¹⁴ A consistent and well-structured educational foundation is paramount to the development of every child but particularly important for those children who have spent prolonged amounts of time in foster care.

The state holds a legal obligation to educate and assist in the continued education of its foster children¹⁵. In the event the minor child is a legal ward of the State or a foster child, the

Department of Education regarding the education and related care of children known to the department. Such agreement shall be designed to provide educational access to children known to the department for the purpose of facilitating the delivery of services or programs to children known to the department. The agreement shall avoid duplication of services or programs and shall provide for combining resources to maximize the availability or delivery of services or programs. The agreement must require the Department of Education to access the department's Florida Safe Families Network to obtain information about children known to the department, consistent with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C.S. § 1232g (LexisNexis 1992).

12 History of Maltreatment and Mental Health Problems in Foster Children: A Review of the Literature; Oswald, Sylvia, Heil, Katharina... Etc. (see handout from Transitions CPS 741)

13 Turner, Shairi, Dr., (@MyFLFamilies), Turner: Trauma impacts brain development in very young children; maltreated child's brain is smaller, 10:36 AM - 9 Mar 12, Tweet

14 Supra 2

15 State/Federal statute on educating foster children

government requires the state to proactively enter into agreements with other agencies as well as the Department of Education for the benefit of the child's well being.¹⁶

Consequently, the government cannot raise children only people can. Unfortunately, when the state takes the position of the parent the child loses. A child who is a victim of abuse or neglect requires more resources than those who are not. It is well documented that children residing in foster care have significantly lower attainment skills than their similarly situated peers, requiring more educational assistance and availability.¹⁷

Studies show that seventy-five percent of children in foster care are working below grade level and thirty-five percent are in special education. While forty-six percent do not complete high school those who attempt to enter college have an attendance level that is less than fifteen percent.¹⁸

The right to education¹⁹ is a guarantee that every child has equal access to quality schools and its services without discrimination at every level of education. This would include but is not

16 *Id.* § 39 (Law. Co-op.).0016 39.0016 Education of abused, neglected, and abandoned children; agency agreements; children having or suspected of having a disability.—2. A requirement that the district school board shall: a. Provide the department with a general listing of the services and information available from the district school board to facilitate educational access for a child known to the department. b. Identify all educational and other services provided by the school and school district which the school district believes are reasonably necessary to meet the educational needs of a child known to the department. c. Determine whether transportation is available for a child known to the department when such transportation will avoid a change in school assignment due to a change in residential placement. Recognizing that continued enrollment in the same school throughout the time the child known to the department is in out-of-home care is preferable unless enrollment in the same school would be unsafe or otherwise impractical, the department, the district school board, and the Department of Education shall assess the availability of federal, charitable, or grant funding for such transportation. d. Provide individualized student intervention or an individual educational plan when a determination has been made through legally appropriate criteria that intervention services are required. The intervention or individual educational plan must include strategies to enable the child known to the department to maximize the attainment of educational goals.

17 Source it.

18 The Children's Law Center, Founded in 1996, Children's Law Center is now the largest legal services organization in the District of Columbia and the only one that provides comprehensive representation specifically on behalf of children.

19 The human right to education guarantees every child access to quality schools and services without discrimination, including quality teachers and curricula, and safe and welcoming school environments that respect human dignity. Education must be aimed at developing each child's personality and abilities to his or her fullest potential and preparing each child to participate in society and do work that is rewarding. As defined by National Economic and Social Rights Initiative (NESRI); Human Right to Education Info Sheet No.1: <http://www.nesri.org/resources/human-right-to-education-no-1>, last accessed 3/30/2012.

limited to quality educators and curriculum with safe and hospitable learning environments which promote learning and respect the human dignity of every student.²⁰

The human right to education includes equal enjoyment and access to educational options and amenities which includes free primary education with standard compulsory subjects and general access with availability to secondary education and equal access to higher education. The freedom of choice in education along with the freedom to establish private or religious institutions of education is fundamental to the enjoyment of this right.²¹

Delineation of the Problem

“The problem with being in the middle of a cultural stigma is that you are the shame.”

The United Nations Committee on Economic, Social and Cultural Rights, in its General Comment 13, identifies four elements with regard to the state’s obligations and with respect to the right to education. They are as follows: availability, accessibility, acceptability and adaptability, also known as the 4-A scheme.²²

A few of the issues foster children face in their educational attainment are the delays in enrollment and transfer of proper school credits. The average child in foster care will change schools a minimum of three times within one school year and a measure in one study revealed that 65 percent of the children in care switched schools a record number of more than seven times in one academic year.²³ This is extremely disruptive to a child’s educational attainment.

Children usually come into [foster] care as victims of abuse, neglect and abandonment. Along with the custodial removal from an offending parent and additional detachment issues, these children face behavioral problems as well as other forms of post traumatic stress.²⁴ Most of the time the maltreated child faces not only having lived and being removed from impoverished

²⁰ *Id* 27

²¹ *Id* 21

²² The Four A-Scheme, mentioned as a successive title, are part of the United Nations Committee on Economic, Social, and Cultural rights, as listed in its General Comment No. 13 and identifies [the] available, accessible, acceptable, and adequate [referencing] the right to education.

²³ *Id* 25

²⁴ [the] History of Maltreatment and Mental Health Problems in Foster Children: A Review of Literature, Oswalk, Heil, and Goldbeck

conditions, the disassociation of family and familial surroundings exasperates the PTSD effect in a child.²⁵

Foster children have much higher absentee rates than other children.²⁶ This can be attributed to lack of transportation to and from school or, in some cases, truancy. Often times even with education advocates and surrogates there is some confusion over who is the authoritative decision maker is when it comes to foster children. This can cause a delay with respect to the communication between welfare agencies and other agents when determining the educational needs of the children. The number of disciplinary referrals a foster child might receive versus children who are not in care is another issue. All of these factors play a role in the attainment of education for children in care. Disabled foster children face inflated forms of these problems. Poverty is a very big hindrance for children in care especially for minority students.

Availability of Quality Education

There must be an adequate number of available school buildings, trained and certified teachers with teacher and student materials which meet the needs of all students. The United States is a country with an abundance of financial resources. Most school districts and a number of schools are equipped with a library, a computer lab, and the technology needed to utilize such facilities properly. All of these resources should be made available for all students²⁷.

Availability of early education, pre-kindergarten is often seen as a mainstay but it has been out of reach for a lot of American children.²⁸ Head Start programs for low income children in recent years lost funding reducing the number of eligible children the program is able to serve to half.²⁹

Research has shown that the early years of childhood development is a crucial stepping stone for children.³⁰ Children in low income to poverty level families are at a higher risk of not participating in early start programs that are needed for educational attainment. Poverty levels among Black children in 2010 were 39.1 percent higher than those of white and Asian children³¹

25 *Id* 30

26 The Legal Center for Foster Care and Education

27 The Right to Education, The Advocates for Human Rights presentation

28 Children's Defense Fund, 2005

29 Blank, 2005

30 Transitions in Family Therapy, 2010

31 *Supra* 7; Differences by major sub-populations

with the very youngest of American children experiencing higher levels of poverty. Low-income areas have limited financial support in its communities. In 2010 one in ten children in the U.S. were living in deep or extreme poverty³². Many Black and Hispanic children are excessively poor. The limited aid in many poverty stricken areas means that early education programs are unavailable for the children of low-income families. A large number of these children will only know ¼ as many words as their non-minority counterparts who live at or above the poverty level by the time they enter first grade.³³

Regular attendance in school matters as well. Studies show that children who enter foster care often miss a record number of school days³⁴ and that once in foster care, children and youth have higher school absence rates than their non-foster care peers.³⁵ The extent to which a child experiences absences from school seem to be directly influenced by three factors which include, age, experience prior to foster care, and experience while in care.³⁶ One study has shown that students who enter care as adolescents have increased absentee rates³⁷.

Poverty in Context

It has already been established that African American and minority families are more likely to live in poverty than their white counterparts. Unfortunately, the child welfare system is designed to address the abuse and neglect in poor families over those of higher income.

Poverty is a major factor in the disproportionate numbers of Black children who enter foster care. More recent poverty levels among Black children in 2010 were 39.1 percent higher than those of white and Asian children with the very youngest of American children experiencing higher levels of poverty. Low-income areas have limited financial support in its communities. In 2010 one in ten children in the U.S. were living in deep or extreme poverty. Many Black and Hispanic children are excessively poor.

Impoverished communities seem to be the breeding ground for foster care. The low income highly impoverished communities seem to dictate the very definition of the wrecked family. It is speculative but the connection between racial predisposition and overrepresentation

32 Child Trends; Two Generations in Poverty

33 Supra 3

34 Research Highlights on Education and Foster Care, 2011

35 *Id*40

36 *Id*40

37 *Id*40

in children of color in the foster care system can be associated with those who are writing the reports, those who receive them, and the particular types of maltreatments which are reported. Further giving way to strong evidence that race is a major influence on which behaviors child welfare reporters deem as abuse, neglect, or abandonment.

This is exemplified in the case *Lassiter v. Dep't of Soc. Servs. of Durham County*, 452 U.S. 18 (1981), *Lassiter v Department of Social Services of Durham Country, North Carolina*. The mother, who was incarcerated at the time, gave birth to a medically needy infant. She was not offered the option to seek any rehabilitative services while in the custody of the state and after her release.

When an African American mother, such as Tatiana Cheeks, is unable to afford basic medical care for her child, she is not only held responsible for his death but her other child is also removed from her care due to the perceived risk to that child. The unfortunate truth is that African American families may be more likely to need services to address the issues associated with living in poverty and racism. However, these services are not offered to them as child welfare interventions at the same rate as Caucasians, rather foster care placement is. This leads us back to the premise that was seen at the inception of the foster care system; that breaking up poor families, who are overwhelmingly African American, is the most effective way to prevent suspected child abuse.

“The mother [Tatiana] was not represented by counsel. On the mother's appeal, the Court of Appeals of North Carolina decided that appointment of counsel for indigent parents was not constitutionally required in proceedings to terminate parental rights. On a writ of certiorari, the mother appealed. In review of this case the mother's infant son was adjudicated a neglected child and placed in the custody of the department of social services. Subsequently, the mother was incarcerated for a murder conviction. Although the mother had an attorney to represent her in the criminal appeal, she did not inform her lawyer about the termination of parental rights proceeding. At that proceeding, the mother represented herself. On appeal, the mother contended that due process required the State to appoint counsel for her because she was indigent. The Court observed that there was a presumption against the right to appointed counsel when no potential deprivation of physical liberty existed. In analyzing the *Mathews v. Eldridge* factors, the Court found that the parents' interests could overcome the presumption against the right to appointed counsel in appropriate cases. The Court concluded that the decision of whether due process required the appointment of counsel for indigent parents in termination of parental proceedings was left to the trial court in the first instance. In the instant case, the Court held that the state trial court committed no error by failing to appoint counsel for the mother. The

outcome of the court affirmed the decision that due process did not require the state to appoint counsel to represent the mother in the proceeding to terminate her parental rights with respect to her infant son.”

The outcome of this case might have been handled differently if this mother were not African American and poor. Poverty is a contextual factor which intrinsically holds stereotyping and discriminatory biases with all persons including child welfare and legal decision makers.

Accessibility to Quality Education

“African American children under the age of eighteen represent thirteen percent of the United States general population but they represent twenty-nine percent of the child welfare population”³⁸.

Consequently, the majority of the children who suffer from delayed acquisition in education it is not only due to socio-economic issues but additional variances within the welfare system play a role as well. Most children in foster care face a delay in school enrollment at almost every age level.³⁹ Part of the reason for the delay in registering foster children for school is inadequate communication between agencies. The state coupled with its supporting departments in the child welfare system must work as a cohesive unit to ensure the foster child has an education which is available to all in every circumstance. Schooling that is unavailable to any child but specifically a child in foster care is unacceptable. Of these children, most of them are two to four times as likely to repeat a grade even as early as kindergarten.⁴⁰ “In the state of California 83-percent of children in care in Los Angeles were held back in school before the third grade and seventy-five percent are working below grade level.”⁴¹

Public schools in low-income areas receive an average of \$1,348 fewer tax dollars per student than schools in higher income districts.⁴² Many teachers in high minority low-income

38 Black Administrator in Child Welfare

39 The Legal Center for Foster Care and Education

40 Supra 7

41 Children's Law Center of Los Angeles (a project of the LA Superior Court).

42 Learning First Alliance. 2005. “A Shared Responsibility: Staffing All High-Poverty, Low-Performing Schools with Effective Teachers and Administrators, A Framework for Action.”

Accessed November 2007 at <http://www.learningfirst.org/lfa-web/rp?pa=docanddocId=76>.

schools report having insufficient facilities, less availability of books and much needed supplies to accommodate the large number of students.⁴³

Children in the child welfare systems are twice as likely to drop out of school.⁴⁴ One of the biggest barriers to education for children in foster care is the lack of access to needed educational services. Accessibility includes, but is not limited to physical access to the building, economic access as well as transportation, materials and all other basic needs in education.

Children who live in foster care for long periods of time not only face separation from biological parents, siblings, and extended family members but they are frequently moved from home to home. School changes are a significant problem for children and youth in foster care. The changes often occur when a child is initially removed from home, or when they move from one foster care placement to another.⁴⁵ This results in a lack of stability in education⁴⁶.

According to the Education Trust Organization⁴⁷ in 2003, it found “minority children were more likely to be placed in programs for children who are diagnosed with mental retardation or have emotional or behavioral disturbances”. Children in foster care score significantly lower than their peers on standardized tests because of lower reading levels and earn lower grades in all compulsory subjects.⁴⁸ Minority students have much lower enrollment numbers in institutes of higher education than their White counterparts. While 70 percent of foster youth have a desire to attend college, only 13 percent gain access to any higher education program and less than 3 percent obtain a bachelor’s degree.⁴⁹

Race and income based achievement gaps give emphasis to the absence of equal access to education in the U.S. In the landmark case of *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954), the Supreme Court of the United States acknowledged that state laws establishing a segregated school system were ruled unconstitutional. It found that the idea of separate but equal was inherently unequal and as a result *de jure racial segregation* was ruled a violation of the equal protection clause of the Fourteenth Amendment of the United States Constitution.

43 National Science Board. 2006. “America’s Pressing Challenge – Building a Stronger Foundation.” Accessed November 2007 at <http://www.nsf.gov/statistics/nsb0602/#compensation>

44 Supra 13

45 Research Highlights on Education and Foster Care, 2011

46 Source It

47 <http://www.edtrust.org/dc/about>

48 Legal Center for Foster Care and Education

49 Supra 21

Later in *Robinson v. Board of Education*, 143 F. Supp. 481, the court found the “plaintiffs African-American children brought an action through their parents against defendants, county board and county superintendent, alleging that their constitutional rights were being violated by being required to attend segregated schools. Defendants moved to dismiss the complaint on the ground that plaintiffs had an adequate remedy by way of mandamus in the state courts and that they had failed to exhaust administrative remedies.”⁵⁰

There must be equal access for all in education, especially those children who are continuously marginalized as they are the most vulnerable. Of the subset groups within the average American demographic included are the poor, immigrants, the disabled, and minorities, more specifically African American children. Unfortunately, of the named subsets listed above is the additional division of foster children most of whom fit into the first category of continuously marginalized individuals.

Early Childhood Education

Early childhood education is a must for any child. An early start is a strong start because education lays the groundwork for a reinforced foundation in development. The National Study of Child and Adolescent Well Being (NSCAW) collected data which was used to determine the extent of developmental problems for 268 children who were 1 to 5 years old and had been in foster care for approximately one year at the time the sample was drawn. Researchers found that 57 percent had a developmental problem in at least one of three areas: 47 percent had cognitive delays, 49 percent had language delays, and 52 percent had behavioral problems. Forty-two percent of the caregivers of these children reported that their child had been assessed for learning problems, special needs, or developmental disabilities. Others had been told that they had a learning problem, special need, or developmental disability. However, only half of the children identified as having [a] learning problem, special need, or developmental disability had an Individualized Family Service Plan (I.F.S.P.) or an Individualized Education Plan (I.E.P.).

50 143 F. Supp. 481, *; 1956 U.S. Dist. LEXIS 2984, ** Rose Marie ROBINSON, by Fannie Robinson, her mother and next friend, and others v. BOARD OF EDUCATION OF ST. MARY'S COUNTY and G. Edward Thomas, President, May Russell, Vice President, Grace Knight, Robert E. Wigginton, Clarence Leo Young, all constituting the members of The Board of Education of St. Mary's County, Maryland, Miss Lettie M. Dent, County Superintendent Civ. No. 8780 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND, CIVIL DIVISION 143 F. Supp. 481; 1956 U.S. Dist. LEXIS 2984 July 9, 1956

What is significant outside of this particular data are the statistics which show the disparities in race when testing and assessing African American foster children.

Thirty-five percent of these children had been suggested by their caseworker for an assessment to identify learning problems and developmental disabilities while seven percent had been referred for special education and 20 percent had referrals for services to address emotional, behavioral or attention problems. Simultaneously, thirty-nine of their caseworkers state that the child needed an assessment to identify learning problems and developmental disabilities. While 22 percent indicate that the child needed services for emotional, behavioral and attention problems and 14 percent indicated that the child needed special education services. Additionally, the children for whom a referral had been made, another three percent were already receiving special education or some other service[s] to address developmental problems.

One particular study analyzed data for foster children ages two to 24 months and found that nearly six in ten were at high risk for neurological or cognitive developmental impairments.

In a study of Illinois children who entered foster care without first receiving in-home services, researchers found that over one third of the 3 to 5 year olds showed evidence of a possible developmental delay. They were assessed and found to have possible issues in at least one of the following domains: visual-motor adaptive, language and cognition, fine or gross motor, personal-social, or problem solving. Fourteen percent of the 3- to 5-year olds were identified as having behavior problems ranging from lack of focus to hostility.

A study that analyzed data from the National Survey of Child and Adolescent Well Being for 641 children who were less than six years old and in foster care, found that had nearly half had scores on measures of cognitive, behavioral, and social skills that would make them eligibility for early intervention services. However, their caregivers reported that one third of the children had received any type of service to address their developmental and behavior problems during the past year.

Acceptable Quality Education

All education, including its substance [curricula], the criteria [methodology] and set standards, as well as its facilitators, must be acceptable. The education level of each teacher and

their proxy must meet adequate relevant, cultural standards. Schools must work to maintain these standards set by the state and federal governments. Every school must meet standards for health, safety and discipline. Discipline policies and procedures must not violate the rights of the student while maintaining their human dignity.⁵¹

Children must have the proper support to prevent serious behavior issues at school. A growing body of research documents the behavioral problems children in foster care face.⁵² As noted earlier there are a disproportionate number of [not only] minority children in academic programs for the mentally challenged but an even larger number of students who are black and the percentage increases because the child is in foster care.⁵³ Behavioral issues affect their academic success as well as track their futures and the same can be said for disciplinary infractions as well and other infractions.⁵⁴ Children in foster care face school suspension and expulsion at a much higher rate than non-foster care children.

Recently there has been a strange movement in special education and across special academic facilities to discipline special needs children who are often times mainstreamed by isolating them from the group. In 1975 Congress passed the Individuals with Disabilities Education Act (IDEA) after the Supreme Court ruled that all special needs children were entitled to a “free and appropriate education” (FAPE) in public schools.⁵⁵ Oftentimes diversion programs⁵⁶ for children in care are not enough. However, isolation and other extreme forms of discipline for children is seen or represented as cruel and unusual punishment.

51 Id 27

52 Research Highlights on Education and Foster Care, July 2011, Unknown Source at This time.

53 Sylvia H. Oswalk, PhD, Katharina Heil, and Lutz Godlbeck, PhD; University Hospital Uim, Department for Child and Adolescent Psychiatry/Psychotherapy; History of Maltreatment and Mental Health Problems in Foster Children: A Review of the Literature.; Journal of Pediatric Psychology 35(5) pp.462-472, 2010; Oxford University Press.

54 Id 50

55 The Individuals with Disabilities Education Act (IDEA) is a law ensuring services to children with disabilities throughout the nation. IDEA governs how states and public agencies provide early intervention, special education and related services to more than 6.5 million eligible infants, toddlers, children and youth with disabilities. <http://idea.ed.gov/> last accessed 3/31/2012

56 A diversion program in the criminal justice system is a form of sentencing and such programs are often run by a police department, court, a district attorney's office, or outside agency designed to enable offenders of criminal law to avoid criminal charges and a criminal record. The purposes of diversion are generally thought to include relief to the courts, police department and probation office, better outcomes compared to direct involvement of the court system, and an opportunity for the offender to avoid prosecution by completing various requirements for the program.

<http://www.djj.state.fl.us/services/office-of-education/education-programs> Last accessed 3/31/2012

In early 2009 in Broward County, Florida, I worked on a case representing the best interest of a 13 year old child⁵⁷ in dependency court who lived in a residential step-down facility.^{58 59} After a very long history in care and the unfortunate circumstances surrounding her life she felt threatened one day while speaking with a child welfare agent and picked up a chair and threw it at the agent. Assault charges were filed and the judge feeling for the child offered leniency if the child were to enter a residential step-down facility (diversion program). This particular African American foster child who later became an official ward of the state⁶⁰ was medically diagnosed with attention deficit disorder⁶¹ (ADD) and possible oppositional behavior disorder⁶² (OBD). On a several different occasions my office was contacted to inform me that the child had been sent to the “Hot Box”. The Hot Box is a disciplinary procedure in this facility where the children’s shoes, laces, ribbons or any objects which can hurt them or enable suicide are removed and the child is locked in an isolation room with no windows and very cold temperatures. Florida State §916.105(3) speaks to Legislative intent with disciplinary actions and rehabilitation.⁶³ Furthermore under §916.1093, Operation and administration rules: “Such rules must address the use of restraint and seclusion in forensic facilities and must be consistent with recognized best practices; prohibit inherently dangerous restraint or seclusion procedures; establish limitations on the use and duration of restraint and seclusion; establish measures to ensure the safety of clients and staff during an incident of restraint or seclusion; establish procedures for staff to follow before, during, and after incidents of restraint or seclusion; establish professional qualifications of and training for staff who may order or be engaged in the use of restraint or seclusion; provide data reporting and data collection procedures relating to the use of restraint and seclusion; and provide for the documentation of the use of restraint or seclusion in the client’s facility record.”⁶⁴

57 The State of Florida recognizes the minor child as being unmarried, a ward of the state and under the age of 18.

58 Id 54, Florida Statutes 1003.52 describe Educational services in Department of Juvenile Justice Programs, and State Board of Education 6A-6.05281(4), Educational Programs for Youth in Department of Juvenile Justice Detention, Commitment, Day Treatment, or Early Delinquency Intervention Programs, rules specify individual academic plans for all juvenile justice education students.

59 (State of Florida definition of facilities)

60 (State of Florida definition on ward of the state (adoptable))

61 Medical definition needed

62 Medical definition needed

63 See Fla §916.105, Legislative intent: (3) It is the intent of the Legislature that evaluation and services to defendants who have mental illness, mental retardation, or autism be provided in community settings, in community residential facilities, or in civil facilities, whenever this is a feasible alternative to treatment or training in a state forensic facility.

64 See Fl §916.1093 Operation and administration; rules: (1) The department or agency may enter into contracts and do such things as may be necessary and incidental to assure compliance with and to carry out the provisions of this chapter in accordance with the stated legislative intent. (2) The

In the United States schools zero tolerance policies, which are very common-place in U.S. schools, are used to suspend and expel students for minor non-violent infractions.⁶⁵ Black Students are suspended and expelled at much higher rates than white students and frequently referred for subjective offenses such as *disrespect*.⁶⁶ According to the latest data collected from the academic year 2009 -2010 throughout nationwide schools, black students were three and a half times more likely to be suspended or expelled than their white classmates. African Americans made up 46 percent of those students who were suspended more than once. Throughout this same academic year 39 percent of all expulsions were black students even though they represented only 18 percent of enrollment.⁶⁷

Additionally, students are also subject to abusive and humiliating comments by teachers and other facilitators.⁶⁸ Those students who are suspended fall behind and are rarely given alternative instruction or the opportunity to make up the work. Minority foster children and more specifically African American foster children are more likely to see placement in academic programs for mentally retarded and special needs children. Even when there are mitigating factors which contribute to behavioral issues while in school, these foster children are labeled learning disabled. Students with disabilities are less likely to graduate than the average student. Only 12.5 percent of working-age people with disabilities have Bachelor's degrees as compared to the national average of 30.3 percent.⁶⁹

department and agency are authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter. Such rules must address the use of restraint and seclusion in forensic facilities and must be consistent with recognized best practices; prohibit inherently dangerous restraint or seclusion procedures; establish limitations on the use and duration of restraint and seclusion; establish measures to ensure the safety of clients and staff during an incident of restraint or seclusion; establish procedures for staff to follow before, during, and after incidents of restraint or seclusion; establish professional qualifications of and training for staff who may order or be engaged in the use of restraint or seclusion; provide data reporting and data collection procedures relating to the use of restraint and seclusion; and provide for the documentation of the use of restraint or seclusion in the client's facility record.

65 The Advancement Project and the Civil Rights Project, 2000

66 Id 63

67 Center for American Progress, Disparities in School Discipline Move Students of Color Toward Prison, http://www.americanprogress.org/issues/2012/03/school_discipline, last accessed 3/4/2012

68 Id 50

69 The Right to Education in the United States as cited within Rehabilitation Research and Training Center on Disability Demographics and Statistics, 2006.

Adequate Standards in Education

Education must be adequate in meeting the needs of the students, it must be malleable to its environment and it must consider the cultural diversity within a school. There must be adequate standards of academic care and enrichment which meet the core curricula criteria of the Federal and State government.⁷⁰ Adequate teaching not only includes awareness beyond intercultural sensitivities but working with those students who are homeless or mainstreamed disabled.

Students with disabilities were shortchanged 10.6 billion dollars of what was expected in the first year of IDEA.^{71 72} The need for funding is ever present as noted in the section covering acceptability; when the statistic regarding disabled students proves they are less likely to graduate from high school.⁷³ Teaching methodology not only needs to be adequate with minimum standards but it must adapt to the needs of every child.

In 2011 in an elementary school in Hollywood, Florida I volunteered as an Education Surrogate to a thirteen year old, African American, disabled foster child. This child had been mainstreamed.⁷⁴ The child's disability is Intellectually Disabled (IND), and the child receives Speech and Language therapy along with Occupational Therapy (OT), and Physical Therapy (PT). This child is in the sixth grade, takes seizure medication and is diaper dependent. This child is very developmentally delayed and communicates through non-verbal communication. The child understands very simple requests and has a good relationship with the foster parent. The child attends a local middle school, has an Individual Education Program (IEP), and receives onsite services. If removed from a mainstream school setting the child will most likely be placed in an Education Center that is more equipped to handle the disabilities, but will focus less on educational development. The foster parent is concerned because every time the child has her cycle or soils her diaper while on school property, she is contacted. The concern this foster parent has is that the child is not being cared for as well as she should be. Enrolling the child at an educational center will enable the child to receive more specialized physical attention. However, the student's educational needs must be filled to an adequate level within the school day. The teacher should not

70 The right to education in the United States, Discover Human Rights; <http://discoverhumanrights.org>; last accessed 3/8/2012.

71 National Education Association, 2007

72 *Id* 55

73 *Id* 71

74 Mainstreaming in education is the placing of children with disabilities in schools where they are amongst a non-disabled population of students. This is oftentimes for purposes of teaching the student how to interact in a reality-based social situation.

and cannot leave the remaining students in the class unattended to care for the disabled student. The class and the curriculum are not adequate in meeting the needs of this child as well as the others.

Homeless children, like foster children, are also subject to frequent school transfers.^{75 76} The disruption causes a child to lose 3-6 months of education every time they are moved.⁷⁷ Eighty-seven percent of the enrolled student population is homeless, while only 77 percent of the homeless population attends school.⁷⁸ These numbers do not include pre-kindergarten or early education children, where less than 16 percent of homeless children are enrolled in preschool programs.⁷⁹

Frequent school changes are a significant problem for children and youth in foster care. There are a number of studies which show that a child in foster care can experience a minimum of four different schools in one school year. School changes often occur when a child is initially removed from the home and subsequently moved while in foster care from one placement to another. The rate of school mobility for children in care is much greater than their non-foster care peers.⁸⁰ Every time a foster child changes schools they fall behind. Late paperwork makes for incorrect or wrong placements in the new school. The inability to follow a new curriculum and challenges in developing and sustaining supportive socialized or mentor relationships with teachers and their peers is a significant part of being and feeling accepted. These children fall behind and their negative academic success only enables their desire to become truant. Foster children drop out of school at much higher rates than those students who are not fostered.⁸¹

Special Education

There are many students who have special learning needs and these needs are addressed through special education. Special education is provided to qualifying students at no cost to the parents. Special education has been put into place by the government to provide any additional

75 Homeless as a term in this paper is defined according to the National Coalition for the Homeless.

76 National Coalition for the Homeless, 2007

77 Id 74

78 Id 75

79 Id 74

80 Research Highlights on Education and Foster Care, the National Working Group on Foster Care and Education, (July, 2011)

81 Research Highlights on Education and Foster Care, the National Working Group on Foster Care and Education, (July, 2011)

services, support, programs, specialized placements and adequate and necessary environmental changes to ensure that all students' educational needs are provided for. In the United States the governing law for special education is the Individuals with Disabilities Education Act (IDEA). In one large city with 32 county school districts a study was conducted showing special education students were over three times more likely to be diagnosed with an emotional disturbance if they had a history of foster care placement than children who were poor but had no child welfare services involvement.

Nearly half of California children in foster care who were placed in group homes or licensed children's institutions (LCI) in 1999 had a special education classification, with emotional disturbance and learning disabilities being the most common. Moreover, these special education students were over 10 times more likely to be enrolled in non-public schools special education foster children who were not in group homes or LCI's. Some of this difference can be explained by the fact that more than half of the latter were diagnosed with a learning disability and fewer than one in ten were diagnosed with an emotional disturbance.⁸²

The following year in Washington State foster children in grades 3, 6 and 9 were two and a half to three times more likely to be enrolled in special education programs than the average 3rd, 6th and 9th grader.⁸³ In 2003, foster children in the Chicago Public Schools were three and a half times more likely to have a special education classification than students in grades 1st through 8th grade who had no history of child welfare services involvement.⁸⁴

Moreover, foster children who had a special education classification were much more likely than other students with a special education classification, but no history of child welfare involvement to be classified as having an emotional or behavioral disorder.⁸⁵ Children in foster care and in special education in a large urban Oregon school district changed schools more frequently and were in more restrictive settings than special education students who were not in foster care. The majority of students enrolled as children who are in the child welfare system are African American children. While Caucasian and Hispanic children are part of the foster population the majority of children who remain in foster care for an extended amount of time are African American children.

⁸² Parrish, et al., 2001

⁸³ Burley and Halpern, 2001

⁸⁴ *Id* 81

⁸⁵ Smithgall, et al., 2004

High School Completion

It is well documented that children residing in foster care have significantly lower educational attainment than similarly situated peers. Studies show 75 percent of children in foster care are working below grade level, 35 percent are in special education, 46 percent do not complete high school; as compared to 16% of non-foster youth, and as few as 15% attend college.⁸⁶ Just over one third of Washington State foster youth who exited care at age 18 or older between January and June 2000 had a high school diploma or GED.⁸⁷

A study of the educational experiences of Illinois foster youth who were, on average, 17.5 years old and had been in foster care for an average of 8 years found that one fifth had dropped out of school. Across the U.S. the drop-out rate for children in care increases tremendously with urban areas consistently showing some of the highest drop-out rates in the nation.

According to the Legal Center for Foster Care and Education in a Philadelphia study “75.2 percent of children in care dropped out of high school in 2005.” By the end of high school the average African American or Hispanic teenager scores at or around the same level as the average White eighth grader in standardized testing.⁸⁸ Education or the lack thereof is directly tied to incarceration rates among African American foster youth. With 33 percent of all males who failed to complete high school experienced incarceration at some point before reaching age 25.⁸⁹ While more than half of all African American men without a high-school diploma go to prison at some point in their lives and nearly 70 percent of young African American men will be imprisoned at some point in their lives, with poor African American men with low levels of education making up the disproportionate share of incarcerated Americans.⁹⁰

Mental Health and Trauma

86 Children’s Law Center

87 Washington State Department of Social and Health Services, 2001

88 *Id* 86

89 Juan C. Cuéllar Jr., JD Candidate, Collateral Consequences, (Spring 2012) (unpublished paper, St. Thomas University Law School)

90 *Id* 89

*"A lot of the things that are identified as traumatic experiences— you know the domestic violence, sexual abuse — are things that we have known about for a long time..., I'm not sure this is not exactly new information. But it's certainly always good to be reminded of it, and to make sure that we're always cognizant to address those issues."*⁹¹

As I have observed trauma is at the foundation of all the factors mentioned earlier, and yet oddly enough there is a lack of professional response when it comes to the effects of trauma in the juvenile court system. With the exception of court ordered mental health evaluations, which is oftentimes overlooked, a large portion of the child welfare population needs this type of therapeutic prescriptive. Unfortunately, it is not necessarily a consideration when determining what might have been the motivation to juvenile criminality. As this is an unresolved area, this situation continues to compound itself. People who have been exposed to trauma, especially in their formative years, are much more likely to be re-exposed to trauma and their vulnerability, including maladaptive behaviors which often result from trauma, leaves them open to becoming more and more traumatized.⁹²

The more traumatized someone becomes the less likely they are able to trust, the less hopeful they become, and ultimately the more complex their needs become.⁹³ This not only results in less than desirable outcomes for them personally but it demands a lot on the community and its social and crisis servicing systems. In other words as a community we are paying a lot of money for undesirable outcomes with people who are incredibly traumatized; as they make their way through the revolving door of drug and alcohol addiction, emergency hospital presentations, police cells, mental health in-patient services, corrections, crisis homelessness shelters, and the list is never ending.

Ann is a fourteen year old who was adjudicated as an adolescent. She entered foster care at age 11 when her mother left her in a crack house, while she [the mother], prostituted herself for money to purchase more crack. Ann is an African American teen who moved from relative caregiver to foster home and then group home. Each placement brought on more emotional detachment and

91 Kathy Halvorson, warden of the Minnesota Correctional Facility in Red Wing said her staff tries to identify the children who've experienced trauma.

92 Sylvia Oswald, PhD., Katharina Heil, and Lutz Goldnesck, PhD., History of Maltreatment and Mental Health Problems in Foster Children: A review of the Literature, journal of pediatric psychology (2010)

93 *Id* 71

anger. Ann⁹⁴ ran away from every single placement and when she wasn't able to run away she would instigate circumstances which would cause her to be removed from her placement. Within the first year that I was assigned Ann's case her placement changed six times. She was a chronic runaway who suffered from severe neglect and I suspected sexual abuse. Ann was exhibiting classic signs of PTSD. One time Ann ran away and landed in juvenile detention. She was allowed to make a phone call and asked me "so,... what do I do now?" Here was an African American adolescent who was so far below her grade level academically that her reading skills were at a fourth grade level. She was traumatized and needed mental health treatment for her obvious signs of PTSD. Unfortunately, her placement changed so often that it was almost impossible to get her the mental health treatments and educational tutors which were needed.

Post traumatic stress disorder, also known as the PTSD Effect, is common amongst foster children who often experience severe situations such as neglect, physical abuse, or sexual abuse before they are in an out-of-home placement.⁹⁵ Trauma and traumatic experiences shake the foundation of our belief about safety, and shatter our assumptions of that trust.⁹⁶ A history of maltreatment is the most common background for children who are placed outside of the home. The failure of biological parents to care for their children is often correlated with the mental health problems associated with children in care face. Trauma impacts brain development in very young children negatively and the maltreated child's brain is smaller.⁹⁷

Additionally, the emotional and behavioral difficulties that accompany the sudden transition into foster care, added to the specific issues within the family and, the subsequent issues in social, emotional and educational development, all contribute to the challenge in attaining life skills for the foster child. Most survivors of trauma experience maladaptive changes in personal behavior because they suffer from an inability to recall different events and aspects in their lives which are usually closely associated with trauma.⁹⁸ Oftentimes they are irritable and prone to angry outburst, have sleep disorders and are unable to concentrate, have difficulty trusting others and live very withdrawn lifestyles. When these physical symptoms are exemplified by a foster child it is often misrecognized as a badly behaved child who is simply

94 The names used in these cases have been changed.

95 *Id* 71

96 Florrie Blurke, M.Ed., MA, LMFT and Independent Consultant on Human Trafficking

97 Turner, Shairi, Dr., (@MyFLFamilies), Turner: Trauma impacts brain development in very young children; maltreated child's brain is smaller, 10:36 AM - 9 Mar 12, Tweet

98 Florrie Burke, M.Ed., MA, LMFT, and Independent Consultant in Human Trafficking

stubborn; leading the child away from mental health prescriptive and right into a variety of disciplinary issues.

In a recent Minnesota study it was revealed that youth in correctional facilities and mainstream schools experience and witness domestic abuse as the most common form of trauma.⁹⁹ Girls in the juvenile justice system, middle-school age, were four times more likely to be subjected to violence than boys. Surprisingly, institutionalized children were more likely to report being victims of sexual abuse by someone outside their family than the children surveyed in the general public.¹⁰⁰

Claimants

“Experts say that if children can't read by the end of the fifth grade, they lose self-confidence and self-esteem, making them more likely to enter the juvenile justice system”¹⁰¹

National data on the number of children in foster care and their individuality provide research that is based on a “child-in-context” scenario which can be measurable for the educational experiences of youth in foster care. The fact is that success in school can be a positive counterweight to the abuse, neglect, separation, and prolonged length of care, experienced by foster children.¹⁰²

Children in Care

Education has the potential to markedly improve the life chances for children in care, and increase their ability to contribute to society as productive adults. The research suggests that far too many of the youth in foster care are not succeeding in school. The federal Child and Family Service Reviews indicate that states are challenged to meet the educational needs of children and youth in foster care.¹⁰³ In particular the history of children in care says a lot about what was important when considering orphaned kids especially those children who were minority or

99 See generally a study: Youth in prison have experienced more trauma by, Minnesota Public Radio, Researchers analyzed data from the Minnesota School Survey, a questionnaire given to 6th, 9th, and 12th graders in Minnesota public schools every three years. In 2010, 131,000 students responded to the survey, including residents of 24 juvenile correctional facilities.

100 Id 84

101 Dirk Kempthorne is an American Politician who served as U.S. Secretary of the Interior under President George W. Bush, 2006 – 2009. He is also a Republican who previously served as the 30th Governor and as a U.S. Senator from Idaho.

102 Id 81

103 Id 85

African American and it indeed speaks to the current statistics of minority children in care and their educational attainment.

In July of 2007, at the request of the U.S. House of Representatives, Ways and Means Committee Chairman, Charles Rangel, and the U.S. Government Accountability Office produced the report, *African American Children in Foster Care: Additional HHS Assistance Needed to Help States Reduce the Proportion in Care (GAO 07-816)*. Detailing the reasons for the overrepresentation of children of color in care, it provides a comprehensive analysis of the issues and potential solutions to reduce this crisis. The report found that families living in poverty have greater difficulty accessing basic services. Biased or cultural distrust between child welfare decision makers and families is a contributing factor to the removal of African American children and they stay in care longer because of the difficulty in recruiting adoptive parents.

The problem plaguing the relationship between African Americans and child welfare systems originated in the relationship between race, New York City's religious affiliations, and the politics of the city. The first child welfare agency was founded by Protestant lawyers. As time went on, other child welfare agencies in New York City began to be founded by other Protestant and Catholic groups, all of which were funded by the City of New York. Since the City was at the mercy of these agencies, searching for vacant places became commonplace, further facilitating the discriminatory practices often described.¹⁰⁴

White children were more likely to be labeled as “neglected” as opposed to “delinquent” in order to preserve the likelihood of a productive future, whereas, African American children underwent the opposite labeling.¹⁰⁵ There were very few options for placement of African American children, they were most often sent to shelters where they could receive temporary care but the treatment delivery was inadequate.¹⁰⁶ In turn, in order to provide some sort of therapeutic treatment, declaring the child “delinquent” could thereby allow for placement in a juvenile detention facility or state school where they could receive at least some treatment,

104 *Id* Error! Bookmark not defined.

105 *Id* Error! Bookmark not defined.

106 *Id* Error! Bookmark not defined.

educational, and therapeutic services.¹⁰⁷ This was the only alternative. Rosner and Markowitz continue to note that:¹⁰⁸

*“By law as well as custom, children who came before the city's children's, family, or domestic relations court were referred to foundling hospitals, children's homes, and orphanages according to religion. With the exception of the public hospital system, which served sick children, there were no governmental services for dependent children except for those deemed delinquent, who could be sent to city and state prisons or reformatories.”*¹⁰⁹

This is an important point to emphasize because it demonstrates system-wide that poor and indigent black children were not accepted by the religious based charitable foster care agencies. They were more likely to be labeled as delinquent and sent to prisons instead. Such is the case of Shirley Wilder for whom the landmark case *Wilder v. Bernstein, also known as Wilder v. Sugarman*, 78 Civ. 957 (S.D.N.Y., June 14 1973)¹¹⁰ is named. Wilder, a young African American girl growing up in New York City during the 1970's had suffered years of neglect and abuse by her various caregivers. The young girl, whose mother and maternal grandmother died when she was very young, was shuttled between various family members who repeatedly beat and berated her, leading her to run away several times. When she was thirteen years old, her father brought her to court asking for the judge to put her away, at which time the judge deemed that Shirley was in need of a residential treatment facility. However, Shirley continued to be bounced around amongst several juvenile detention facilities while the traditional voluntary agencies turned her down, never allowing her to receive the services she needed.¹¹¹

This is an example of how many African American foster children live day to day even in contemporary times. Situations like these are not necessarily because of purposeful acts but they happen when discriminatory policy making practices lead the child further into a cycle which is bureaucratically driven by the child welfare system. A system that is cyclical and amiss with bad communication and constant missed deadlines.

107 D. Rosner and G. Markowitz, *Race, foster care, and the politics of abandonment in New York City*, (1997)

108 *Id* 41

109 D. Rosner and G. Markowitz, *Race, foster care, and the politics of abandonment in New York City*, (1997), *See* p. 1845

110 *Wilder v. Bernstein, also known as Wilder v. Sugarman*, 78 Civ. 957 (S.D.N.Y., June 14, 1973)

111 *Id* 44

The use of prisons and juvenile detention facilities, as Wilder experienced, was the norm during this period of U.S. history. Roberts explains that, “the major child caring institution for Black and other nonwhite children was the prison”.^{112 113} As time progressed, however, this relationship began to shift, reflecting a different set of ideals. Beginning in 1971, the *Wilder v Sugarman* case challenged the systemic discrimination of city funded, but sectarian controlled agencies.¹¹⁴ Finally settling in 1984, the New York Civil Liberties Union won a victory in which the City “agreed to place children with foster care agencies on a first-come, first served basis, regardless of race or religion” setting the stage for what present day foster care systems represent.¹¹⁵ What was once a system that virtually closed off African Americans was now forced to provide the same placement options given to other children; however many of the personal bias and stigmas which are associated with stereotyping Black Americans remains.

The case of *Wilder vs. Sugarman* forever changed the landscape of the foster care system for African Americans. This case, however, was just one of the reasons why the number of minorities in the foster care system began to rise, eventually leading to the disproportionate numbers we see today.

In an article published by the Casey Foundation entitled *Synthesis of Research on Disproportionality in Child Welfare: An Update*, the following is explained:

“It was not until the 1950’s and 1960’s that the number of black children in white child welfare institutions steadily grew. This increase was due to (a) the surge in black migrants from rural communities to Southern and Northern cities, (b) the civil rights struggle for integration, and (c) the exodus of whites from central cities to newly developing suburbs”.¹¹⁶ What became evident was the rise of African Americans in foster care while the number of whites decreased. Rosner and Markowitz report that, “from 1960 through 1971, the number of children in the foster care system expanded by almost 50%, from 18,267 to 26,514. During this time, the percentage of White children dropped from about 41% to just 23.5%, and the percentage of Black and Hispanic children rose from about 58% to more than 76%, The sectarian agencies, which in 1940 rarely had more than 2% of Black children in their institutions, now cared for almost 47% of African Americans in the system”.¹¹⁷

112 Dorothy Roberts, *Shattered bonds: the color of child welfare*, (2002)

113 *Id* 112 See p. 7

114 *Wilder v Sugarman*, 78 Civ. 957

115 *Id* 107, See p. 1848

116 Hill, *The Disproportionate Representation of Children of Color in Foster Care*, See p. 11, (2006), last accessed <http://www.ncsl.org/print/cyf/fostercarecolor.pdf>

117 *Id* 107, See p. 1848

Currently, the disproportionality seen in foster care systems across the country continues to stagger due to factors such as poverty, race, and cultural biases.

Research drawn from several relevant resources allows us to understand the statistics regarding present day disproportionality of African American children in foster care in comparison to their representation in the general population. The use of this data allows researchers to analyze trends in the disproportionate number of African Americans in foster care systems across the country. This is essential when analyzing areas where the proportion of African American children in foster care is more than the proportion of minority children in the total population.

The underlying premise is, “despite the fact that multiple national research studies prove that African-American families are *not* more likely to abuse or neglect their children,” they continue to be severely overrepresented in child welfare systems across the country.¹¹⁸ In a separate report published by the GAO it is also noted that children of all races and ethnicities are equally likely to be abused or neglected however, African American children were more than twice as likely to enter foster care in 2004 when compared with white children.¹¹⁹

Once a family is reported to local child welfare officials, they enter into a very systemic process of decision-making. A report of suspected abuse or maltreatment is made to the state’s child abuse hotline and if the report is accepted, it is then forwarded to the local child welfare office for further investigation. Once the investigation has begun, the child welfare caseworker makes decisions based on the perceived safety and risk assessments of the child[ren] in the care of the parents. Researchers speculate that the risk threshold of caseworkers for more intrusive interventions is higher for Caucasian families than African American families.¹²⁰ If the safety and risk assessment is deemed very high the care will then be moved to dependency court. These decisions are made in conjunction with agency supervisors and consultants as to the best course of action for the children in the home.

118 Center for the Study of Social Policy, 2005, *See* p. 1

119 Deborah A. Signer, PhD., African American Children in Foster Care, Presentation on GAO Report for Casey Family 2008 National Convening on Youth Permanence, (2008), *last accessed* <http://ocfs.ny.gov/main/recc/Addressing%20Racial%20Disparities%20-%20Deborah%20Signer.pdf>

120 Rivaux, James, Wittenstrom, and Baumann, The intersection of race, poverty and risk: understanding the decision to provide services to clients and to remove children, (2008).

The decisions made in child welfare proceedings are left to individuals who base their decisions on their own personal values, their cultural biases, their formal training in child welfare, and their own interpretations of what can be vague definitions of safety and risk. Additionally, decisions are further grounded in agency factors and the agency climate, which include assessment tools, policies, and practices that are carried out by child welfare staff.¹²¹ Child welfare caseworkers are individuals charged with making life-changing decisions. These decisions can be unintentionally influenced by personal experience and bad or out-of-date policies which were created long before today's case worker ever considered becoming an employee of the child welfare system.

Most child welfare caseworkers are recent college graduates with minimal formalized training in child abuse and maltreatment recognition, and in family dynamics and intercultural influence.¹²² Many states have adopted a training protocol for newly hired caseworkers as well as continued development for current case workers; however the training does not adequately prepare workers for what they will encounter once they are in the field. Additionally, worker turnover is notoriously high in child welfare agencies due to the overwhelming work. The high turnover rate leads to a workforce of oftentimes inexperienced caseworkers. In many child welfare agencies, child welfare caseworkers operate in a state of fear about their caseload and impending repercussions. Participants in a study conducted by Detlaff and Rycraft reported that child welfare decision making is often based on fear of liability rather than what is in the best interest of the child, further perpetuating inherent stereotypes on children of color. Caseworkers often choose the safe decision to remove based on fear, that should the child be allowed to stay in the home and harmed, they will be disciplined by their superior.¹²³

Assessment tools adopted by agencies are often vague and ineffective at judging potential harm to children. The child welfare definitions of safety versus risk can be interpreted in various ways as there is no universal standardized definition in place. For the most part, states have adopted risk assessment tools that although aimed at aiding caseworkers' decision making, are

121 Florida Department of Children and Families, ChildNet, Child Advocate job description

122 Shondi Jones, MA, *The African American Experience in Foster Care*, a Collection of Papers Examining Disproportionality in the American Foster Care System (Fall 2011) (unpublished thesis, Empire State College)

123 Rivaux, James, Wittenstrom, and Baumann, *The intersection of race, poverty and risk: understanding the decision to provide services to clients and to remove children*, (2008).

often ineffective and do not eliminate bias. Allowing the use of risk assessment tools by untrained caseworkers simply adds to the disparate responses in child welfare decision making.

With very little more than preliminary training in the many dynamics of neglect, maltreatment, and parenting, inadequate risk assessment tools will lead to poor decision making. Therefore, caseworkers go into the field and are forced to rely on their personal and cultural values to make decisions. These values regarding child rearing and appropriate parenting behaviors are used as opposed to any formalized training that they may have received.

In a study it is noted that there is a disparate response on the part of agency caseworkers, which leads to differential treatment of African Americans.¹²⁴ Specifically they state that, “many decisions involving African American children reflect cultural bias, stating that caseworkers often judge families according to their own standards of appropriate parenting, rather than thoroughly assessing risks”.¹²⁵

The cultural biases on the part of child welfare caseworkers directly affect their perceptions of risk and decision making. Roberts notes that, caseworkers often misinterpret African American parents’ cultural traditions, demeanor, and informal means of handling family distress as neglect.¹²⁶ Misperceptions of what are culturally accepted traditions of child-rearing in African American households lead to the mislabeling of certain behaviors as being neglectful. Caseworkers have the tendency to use a model family as their frame of reference when making risk assessments and child welfare decisions. The model for many caseworkers is a two-parent headed middle class, Caucasian family.¹²⁷ Subsequently, a fear of liability, cultural biases, personal parenting values, lack of training and ineffective assessments when tools all contribute to the risk entrance assessments when providing services for minority families.

As a result, where Caucasian families are afforded services in their homes to avoid emotional damage and placements into foster care, African American families are not. African American children are more likely to be in foster care placement than receive in-home services, even when they have the same issues as Caucasian children.¹²⁸ Caucasian mothers have more access to therapeutic treatments, rehabilitative services and top-notch medical care than African

124 Wendy Cervantes, Yali Lincroft, MBA, *Caught Between Systems: The Intersections of Immigration and Child Welfare Policies*, (2010)

125 Detlaff, Addams, and Rycraft, 2008, p. 46

126 *Id* 112, p. 59

127 Dorothy Roberts, *Shattered bonds: the color of child welfare*, (2002)

128 *Id* 127

American mothers. When Caucasian mothers report feeling overwhelmed to doctors or loved ones, they are more often offered therapeutic treatment, whereas African American mothers are more likely to be reported to child welfare authorities and the child is removed due to the risk of harm. As exemplified earlier, when a Caucasian mother is found to be using illicit substances during or after pregnancy, she is more likely to be offered a drug rehabilitation program while her child is able to remain with a family member. On the other hand, if an African American mother is found in the same circumstance, she is more likely to be reported to child welfare authorities due to the biased perception of risk.

In 2006, The Center for the Study of Social Policy and the Annie E. Casey Foundation published an article entitled *Synthesis of Research on Disproportionality in Child Welfare: An Update*, in which AFCARS¹²⁹ and 2000 Census data were used to determine disproportionality rates for out-of-home placements at the national level. The researchers reported that they divided the number of children reported to be in foster care by their proportion in the census population. Not surprisingly, African Americans were the most overrepresented with Native Americans closely behind.

The Center for the Study of Social Policy reported that “African American children accounted for 37% of the total number of children placed in foster care in America in 2000, and approximately 46% were accounted for by non-Hispanic White children. This was the case despite the fact that African-American children only comprised 15% of the total minor¹³⁰ child population in the U.S. back in 2000.”^{131 132}

Furthermore, they report that overall, “46 states have disproportionate representations of African-American children in their child welfare systems. In these states, the proportion of African-American children in foster care is more than two times the proportion of African American children in the state’s total child population 18 years and younger”.¹³³ On the other hand, in every single state that was examined the occurrence of white children in the child welfare system is at least proportional to their occurrence in the states’ total child population under 18 year of age. The states named with the highest rates of disproportionality are California,

129 Definition, Children’s Bureau, Adoption and Foster Care Analysis and Reporting System, *last accessed* www.childwelfare.gov

130 A minor is defined as anyone under the age of 18, who is unmarried and a dependent

131 United States Census Bureau

132 Center for the Study of Social Policy, 2005, p. 1

133 *Id*

Wyoming, Idaho, Wisconsin, and New Hampshire.¹³⁴ The data shows that although African Americans only make up a small percentage of the US population, they make up the highest percentage of children in the national foster care population.

Department of Education

The United States Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access. The department of education does this through four major tenants which are policies directly related to educational funding, [the] collecting of data and research on American schools, the enforcement of federal laws which prohibit discrimination in any and all programs which are federally funded.¹³⁵

The US department of education is responsible for a variety of areas and subareas within federal education but this section of the paper will discuss its efforts in early childhood education and the Early Childhood Longitudinal Study (ECLS). The ECLS program consists of three longitudinal studies which examine child development, school readiness, and early school experiences.¹³⁶ The ECLS program provides national data on children's status at birth and at various points thereafter. It reviews the transitions to non-parental care, early education programs, and school; and children's experiences and growth through the eighth grade. The ECLS program also provides data to analyze the relationships among a wide range of family, school, community, and individual variables with children's development, early learning, and performance in school. The study does not designate between foster children and other students.

A similar program to that of the US Department of Education is Voluntary Prekindergarten (VPK) through the Florida Department of Education. The Florida department of education offers what is an early learning, prekindergarten program. The Florida department of education in conjunction with the Office of Early Learning (DOE/OEL) collaborates in the state of Florida to implement provisions for the VPK Education Program.

¹³⁴ Center for the Study of Social Policy, 2005

¹³⁵ The United States Department of Education, What We Do, last accessed: <http://www2.ed.gov/about/what-we-do.html> 04/06/2012

¹³⁶ *Id* 135

Together these combined offices concern themselves with specific duties which are akin to administrative accountability requirements at the state-level, provision of professional development including emergent literacy and director credential course(s), approval of VPK director credential requirements, adoption/administration of a statewide kindergarten screening, review and approval of curricula for providers on probation for failure to meet readiness rate, calculation of kindergarten readiness rate, and articulation of the Child Development Associate (CDA) or Florida Child Care Professional Certificate (FCCPC).¹³⁷

As noted earlier an early start with a solid foundation is the key to great development. Under the state supervision are county school districts which are monitored and regulated by local school boards.

Past Trends

“Government big enough to supply everything you need is big enough to take everything you have. The course of history shows us that as a government grows, liberty decreases.” --Thomas Jefferson

Education and Law

There are many agencies, non-profits and third party entities all of whom concern themselves with education laws, regulations and rules. There are standards, assessments and accountability related provisions which states must follow as mandated by federal agencies and legislation. The right to education is a human right. It is a guarantee that every person has equal access to quality schools and services without discrimination at every level of education. This right includes instruction from quality teachers and curricula which has been created and implemented to feed the proper development of every student and all of this should be provided for in a safe, welcoming environment which does not dehumanize, segregate, discriminate, or violate the human rights of any child.

Federal and State Laws

137 The Florida Department of Education, last accessed 4/23/2012;
<http://www.fl DOE.org/earlyLearning/pdf/vpk-factsheet.pdf>

In the United States the federal laws which govern the right to education are many and they carry with them obligations. To ensure the government abides by its obligations to the right to education the following must be adhered to: respect in that government interruption of such an education is avoided, protection against individuals or institution which try to supersede the right to education for every child.¹³⁸ The fulfillment of basic learning needs of all students so that they can develop to their full capacities, live and work in dignity, and participate in society. The assurance of equity and non-discrimination in education so that there are no communities that have inferior opportunities or outcomes based on class, race, gender, sexual orientation, language, immigration status, disability, or other factors. The maximum resources available to all which ensure the right to education based on the resources of society as a whole and not the resources in the current budget. A system which monitors and makes informed decisions based on transparent and available public information which allows for solution oriented remedies when the rights of students or parents are violated.

The federal government throughout the years has worked to implement legislation concerning the obvious inherent discriminatory policies of our education system through legislation such as the “No Child Left Behind” Act of 2001, which is geared to elementary and secondary grades. The Title I, Improving the Academic Achievement of the Disadvantaged, which in its statement of purpose denotes that “this title is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach at a minimum, proficiency on challenging State academic achievement standards and state academic assessments.”¹³⁹

International Standards in Education

The United States accountability to non-discrimination is covered in two international documents which are the International Covenant on Civil and Political Rights (ICPR), which it ratified in 1992, and the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), which was ratified by the U.S. in 1994.¹⁴⁰

¹³⁸ The Right to Education, The Advocates

¹³⁹ The United States Department of Education, Federal Legislation, last accessed 5/01/2012; <http://www2.ed.gov/policy/elsec/leg/esea02/pg1.html#sec1001>

¹⁴⁰ The Right to Education, The Advocates

International Standards of Education include: the Universal Declaration of Human Rights (UDHR), Article 26 (1948), “Everyone has the right to education, based on the principles of inclusion and non-discrimination.”¹⁴¹ ; International Covenant on Economic, Social, and Cultural Rights (ICESCR), Article 13 (1996), “Primary education should be available to all and made progressively free.”¹⁴² And the Convention on the Rights of the Child (CRC), Articles 28 and 29 (1990), “Secondary education, including technical and vocational, should be made available to all and made progressively free.” “Parents have a right to decide on the education of their children.”¹⁴³

We can clearly see there are three key documents which have shaped the standards for the right to education the UDHR, the ICESCR, and the CRC. Additionally, it is clear the global education community has made many strides but has a long route ahead to ensure equal accessible and attainable education to all persons. We can see this exemplified in the time span between the dates acceptance within the international community.¹⁴⁴ The U.S. has ratified and is therefore legally bound to two international human rights treaties that prohibit discrimination in education. The U.S. however has only signed, not ratified the two major treaties recognizing the right to education. By signing these treaties, the government has agreed not to violate the ‘object and purpose’ of the treaty.

Government Accountability

The U.S. has fallen short in some areas which directly concern the education of all students but specifically fail the African American foster child. The U.S. is failing in available Pre-K Education in that Head Start programs for low-income children only has enough funding to serve half of all eligible children.¹⁴⁵ Adequate funding, the money received by schools in urban and low income areas are a likely to spend money on building repairs and environmental dangers which require upkeep by the government rather than books and materials needed for children to earn an adequate education.

¹⁴¹ UDHR

¹⁴² ICESCR

¹⁴³ CRC

¹⁴⁴ The Right to Education, The Advocates

¹⁴⁵ The Children’s Defense Fund 2010

Teachers having the opportunity to earn competitive salaries, in most states for the majority of the last ten years teacher salaries have capped out at less than 45K which is only a little over twenty-five hundred dollars annually than were the salaried educators in the early 70s.¹⁴⁶ Southern states fall behind in the greatest numbers for teacher pay and this number is exemplified in the number of students in the south who fall below the national average. Poorer districts with higher numbers of African American and other minority students usually have the lowest paid teachers.¹⁴⁷ Head Start, a program for low-income children only has enough funding to serve half of all eligible children.

Race and Income-based achievement gaps underscore the absence of equitable access to education in the nation. Minority children are less likely to be in gifted and talented programs and are more likely to be in programs for children with mental retardation or emotional or behavioral disturbances.¹⁴⁸ College enrollment of students of color lags behind their white counterparts and blacks are much less likely to complete their college education.^{149 150}

College Enrollment statistics 2002 - 2004: All students are ages 18 – 24 years in age.¹⁵¹

White High School Graduates	African American High School Graduates	Hispanic High School Graduates
47.3 %	41.1 %	35.2 %

College completion statistics 2002 – 2004: College freshmen to graduate within the first 6 years of enrollment.¹⁵²

White College Freshman	African American College Freshman
61 %	41 %

Disciplinary policies that respect a child's dignity are essential to the respect of a child's rights but crucial as to the respect between the teacher and student. African American Students are subjected to abusive or humiliating comments by teachers more often than their peers.

¹⁴⁶ The Southern Education Foundation, 2001

¹⁴⁷ The Learning Alliance, 2005

¹⁴⁸ Education Trust, 2003

¹⁴⁹ American Council on Education, 2006

¹⁵⁰ Education Trust, 2003

¹⁵¹ American Council on Education, 2006

¹⁵² The Education Trust, 2003

American public schools' discipline policies and practices utilize reactionary and punitive responses that push students out of the learning environment and criminalize their behavior. In particular those that serve low-income communities which are highly populated with African American students. Additionally, the African American child with the highest recorded number of disciplinary and behavioral problems are foster children.¹⁵³

Future Trends

"I have learned that life and truth are ever-changing but by far our most precious gifts"

Federal Agenda

In early 2012, President Obama presented his \$3.8 trillion for fiscal year 2013 budget request to Congress. This budget outlined his spending priorities for the coming year and it focuses on reducing the federal deficit. Funding for the Department of Education provides \$69.8 billion in discretionary spending, which is \$1.7 billion above the 2012 appropriation. In addition, the budget request also calls for over \$60 billion in mandatory spending for new investments in teacher preparation, preventing teacher layoffs and modernizing school facilities.¹⁵⁴

The President's commitment to K-12 education is reflected in the increases with some of the key competitive grant initiatives, such as Race to the Top. However, the budget request also freezes funding for a number of key programs that would benefit specific student subgroups such as homeless students, English Learners and youth transitioning out of the justice system. Moreover, major grant programs aimed at supporting our most disadvantaged students would also see inactive funding, such as Title I and special education.¹⁵⁵

The President's noteworthy program increases are the following: *"The Race To The Top*; The President's request calls for \$850 million, an increase of \$301 million from the 2012 appropriation. With an increase of 55 percent, it would continue supporting comprehensive State and local reforms designed to close achievement gaps and produce significant improvements in

¹⁵³ The Advancement Project and the Civil Rights Project, 2000

¹⁵⁴ Education in the Presidents Fiscal Year 2013 budget, First Focus, (March 2012)

¹⁵⁵ *Id* 119

student achievement and high school graduation rates. The request also includes funding for the Rate to the Top - Early Learning Challenge.”

“Promise Neighborhoods; The President’s Request calls for \$100 million, an increase of \$40.1 million from the 2012 appropriation; allowing for the continued sustaining of competitive grants that support the development and implementation of comprehensive neighborhood projects that include a continuum of family and community services and ambitious education reforms designed to combat the adverse effects of poverty and improve education and life outcomes. By continuing to help meet the needs of the whole child, First Focus applauds the president’s commitment to comprehensive supports for children, youth and families.”

“Successful Safe and Healthy Students; The President’s Request calls for \$195.9 million for a new competitive grant program under the Administration’s ESEA reauthorization proposal, to implement strategies designed to improve the physical and mental health of students; reduce or prevent drug use, alcohol use, bullying and harassment; and report better information on school climate and student safety. Funding for this new program is drawn from the consolidation of existing programs, such as elementary and school counseling, physical education program and alcohol abuse reduction program.”

Federal Losses

The following are programs which will lose federal funding: Title I, Part A, College and Career Ready Students Program, Neglected and Delinquent Children and Youth Education (ESEA I-D), Homeless Children and Youth Education, and English Learner Education.¹⁵⁶

Conclusion

In today’s society, individuals who are well-rounded and highly educated tend to be universally accepted as key, contributing components of society. Typically, those who fall into that category have had solid foundations and institutions in which helped mold them into what they are today. You would imagine that every human being is entitled to those same opportunities; however, that is not the case for many children who are raised in foster care. More often than not, these children slip through the cracks of our education system in which there is no

¹⁵⁶ Education in the Presidents Fiscal Year 2013 budget, First Focus, (March 2012)

accountability for their attendance or enrollment resulting in a low grade comprehensive reading levels or an inability to compute basic math.

The key, fundamental factor for children in foster care to become a successful and contributing factor to society is education. Education is not only a human right but it is paramount to the progressive advancement of our communities. However, the government cannot raise children in which case the government ultimately relies on the support of additional welfare agencies and civil society. It is unfortunate the courts and the child welfare agency everywhere play a role in the child welfare system. Despite shared involvement in handing educating the foster child the courts and agencies do not work well together. When the government takes on the role of the parent the child loses.

Many children suffer from delayed acquisition of life skills as a result of an arrested educational development. Detachments of this kind can create immediate and undefined long-term effects. Children have a right to be healthy, educated, protected, housed, fed and feel supported. These inherent rights encourage children to strive, thrive and fulfill their God-given potential. A quality education builds the foundation for a child's transition to adulthood, and the consistency of such education is particularly important for children who have spent the majority their childhood in foster care.

Suggested Adaptable Methods

Standardization of education fails to account for individual learning ability. While there is a need for structurally reforming education, those promoting it need to consider several factors. These factors can range from assessing the learning ability of each student and determining how to teach them according to their abilities. You also need to account for the learning materials used, the educational fitness of the teachers, student willingness to learn, etc. The one-education-fits-all approach cannot generally address the intellectual needs of the student body. However, the real problem lay in devising a cost-effective approach to education that will account for the numerous factors that are a part of the educational process.

Unfortunately, the prolonged nature of some court cases and the undetermined welfare or states assistant a custodial parent my need before reunification can be established children can remain in foster care for an undetermined length of time. Children who remain in foster care for

long periods of time, not only face separation from biological parents, siblings, and extended family members, but usually they are strapped with the trauma of the situation they were removed from resulting in unsuccessful attachments to their temporary families, which usually warrants frequent moving and a lack of school stability.

This battle requires a whole-of-society approach, to include the Department of Children and Families and their sub-contractors. The best way for a society to address the problem at hand is through collaboration, cooperation and creativity. Many children in care have already suffered through significant difficulties with educational attainment. Additionally, the emotional and behavioral difficulties that accompany the sudden transition into foster care, added to the specific issues within the family and subsequent issues in social, emotional and educational development, all contribute to the challenge of continued educational retention.

Suggestions for What is Needed

- A comprehensive system that assures less disruption than necessary (across the board)
- Documentation of progressive methods which have helped the child over time
- If a child is succeeding in one school, they should not be forced to move schools because the placement has changed.
- Provide immediate and noteworthy assessment of children experiencing significant difficulty.
- Provide the support necessary to progressively assist the child in educational attainment
- What are the main issues contributing to a child's failure in the context of education and when, where, and how is the system failing

Additional Curricula Standards

The argument for life skills curriculum and transitional development as part of the compulsory learning:

The implication that the system is failing the children, without reflecting that young people often enter care with significant disadvantages from the outset, would be misleading. However, in order for one to catch up, it will require education beyond the standard school years, as well as an increase in available resource during those years.

These necessary courses will address strong life skills and an opportunity to provide group therapy while in school to help cope with day-to-day issues. Some suggested mandatory curriculum courses include: budgeting and banking; maintaining a household to include learning how to do laundry; shopping for groceries and necessities; and safety protection. These classes can and very well should be compulsory courses for children in care. We must also be aware that it is important not to create a dependent child, but creating an easy transition from child welfare into temporary welfare, and in some cases, homelessness. We must be careful not to enable children to become dependent on the very system that fundamentally was designed to help them.

We hold responsibility to assure the child has every opportunity as would expect for birth or adoptive parents to provide. Additionally, we must go through committees or funding channels for approval and this takes much longer than it does for biological or adoptive parents to decide on a life decision about their child and in the end the answer we receive may be "no."

Targets for Improvement

The point about the prior experiences of children before they come into care is really important as it raises the question of whether it is appropriate or even realistic to set improvement targets that are based upon the general population of children not in care. As the government is also responsible for education, child welfare, and juvenile justice there is more that needs to be addressed with regard to the coordination of educational affairs. Education is a human right but is not necessarily primarily recognized as such. If upon recognition we understand why education is a human right we can then take the necessary steps to emphasize the current educational crisis we have in the United States.

Recognition of this right means providing positive, alternative framework for education with domestic and international policy recognition. We might have the opportunity to provide a unifying message based on the universality of rights and the right of communities. Additionally, we could offer practical advocacy and raise awareness while continually documenting violations and policy weaknesses.

Child Welfare and Cross Service Connections

The active role the government takes in the life of a child who is a part of the welfare system requires a careful construct through a common framework system which respects the necessary

confidentiality issues. While issues of confidentiality are quite significant with such a system, the idea is that professionals can form a better understanding of the issues experienced by the child in the environment. Laws restrict the sharing of some information without a release from the child/ parents. In cases where children are in foster care and not yet full custody of the State, there are obligations to ensure confidentiality. Early intervention and prevention practices would be useful in assuring children, in general are able to achieve.

Some children in care succeed in education just as some children in poverty do however, with an education system based on competition, creating a culture of winners and losers and measuring successes and failures on standardized testing, it should come to know surprise that children who have been fortunate to have social and economic stability and advantages are more likely to succeed. Children in care can barely compete in such a competitively based education system. With the idea that competitive efforts can change the educational experience of children in care for the better, we are lying to ourselves before we realistically address the issue. Competition will not help these children because the cause of their relative lack of educational success is a much larger and a fundamental societal problem.

Some children in care do in fact succeed; unfortunately, this is not the majority. The Department of Children and Families along with other resource providers must remember that we are acting in the capacity as parents, we must ensure that each child has the level of support, engagement, and opportunity as we would expect for their parent(s) to provide. We need to keep in mind that the Government has significantly greater resources than the families of many children. However, some of this money has come from the very families we serve. I do not believe the Government is the best entity to identify certain needs for children.

Children can choose one of countless of learning methods: some academic, some technical, and some artistic. All people need to be able to take their own path and, provided they are not self-harming or harming others, they should be supported but not at the expense of the possibilities that can be achieved. Just by offering a new standard in compulsory education with the addition of a life-skills curriculum and a framework for intensive support in both math and science, those students who lead towards a technical path might find they are better suited to follow a path to higher education.

Education structural reform is necessary and part of the reformation includes recognition of the right to education in its full context. The reality is that our current system was developed when most people had access to manufacturing jobs, when the nation was moving based on the economic benefits of this industry. Today's information age requires a much higher skill set which is a hard attainment for maltreated and marginalized children. Adaptable learning methods are part of the answer. The system has taught us throughout the years that changing methods do not equate adaptable methods. Students who couldn't perform at the minimum standards were expected to drop out and begin working this is not an option in today's global society. A system designed or redesigned to change without recognition of the right to education for all means that it is without a malleable foundation and this system does not make all students successful. The purpose and function of our current education system has changed and it is only smart that we as a nation recognize that the system must be changed to support the right to education with a renewed mission of educating all students equally and preparing them to be college ready.